

## § 48.17

(1) Arises out of the transaction or occurrence that is the subject of the retail forex customer's claim or grievance; and

(2) Does not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

[76 FR 41384, July 14, 2011, as amended at 76 FR 56097, Sept. 12, 2011]

### § 48.17 Reservation of authority.

The OCC may modify the disclosure, recordkeeping, capital and margin, reporting, business conduct, documentation, or other standards or requirements under this part for a specific retail forex transaction or a class of retail forex transactions if the OCC determines that the modification is consistent with safety and soundness and the protection of retail forex customers.

## PARTS 49–99 [RESERVED]

## PART 100—RULES APPLICABLE TO SAVINGS ASSOCIATIONS

AUTHORITY: 12 U.S.C. 1462a, 1463, 5412(b)(2)(B), 5414(b)(2).

SOURCE: 76 FR 48956, Aug. 9, 2011, unless otherwise noted.

### § 100.1 Certain regulations superseded.

Effective on July 21, 2011, section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (2010)) (12 U.S.C. 5412(b)(2)(B)) transferred rulemaking authority of the Office of Thrift Supervision (OTS) relating to all savings associations, both state and Federal to the OCC. The regulations set forth in parts 100 through 197 of this chapter I applying to Federal savings associations and state savings associations, as those terms are defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), supersede corresponding regulations set forth in parts 500 through 591 of chapter V of the Code of Federal Regulations that were applicable to such entities prior to July 21, 2011.

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### § 100.2 Waiver authority.

The Comptroller of the Currency may, for good cause and to the extent permitted by statute, waive the applicability of any provision of parts 100 through 197.

## PARTS 101–107 [RESERVED]

## PART 108—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

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AUTHORITY: 12 U.S.C. 1464, 1818, 5412(b)(2)(B).

SOURCE: 76 FR 48956, Aug. 9, 2011, unless otherwise noted.

### § 108.1 Scope.

The rules in this part apply to hearings, which are exempt from the adjudicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of a Federal savings association, Federal savings association subsidiary, or affiliate service corporation, where such person has been suspended or removed from office or prohibited from further participation in the conduct of the affairs of one of the aforementioned entities by a Notice or Order served by the OCC upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act, (12 U.S.C. 1818(g)).

### § 108.2 Definitions.

As used in this part—

(a) The term *OCC* means the Office of the Comptroller of the Currency.

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(b) [Reserved]

(c) The term *Notice* means a Notice of Suspension or Notice of Prohibition issued by the OCC pursuant to section 8(g) of the Federal Deposit Insurance Act.

(d) The term *Order* means an Order of Removal or Order of Prohibition issued by the OCC pursuant to section 8(g) of the Federal Deposit Insurance Act.

(e) The term *association* means a Federal savings association within the meaning of section 2(5) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1462(5) ("HOLA"), Federal savings association subsidiary and an affiliate service corporation within the meaning of section 8(b)(8) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1818(b)(8) ("FDIA").

(f) The term *subject individual* means a person served with a Notice or Order.

(g) The term *petitioner* means a subject individual who has filed a petition for informal hearing under this part.

### § 108.3 Issuance of Notice or Order.

(a) The OCC may issue and serve a Notice upon an officer, director, or other person participating in the conduct of the affairs of an association, where the individual is charged in any information, indictment, or complaint with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under state or Federal law, if the OCC, upon due deliberation, determines that continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association. The Notice shall remain in effect until the information, indictment, or complaint is finally disposed of or until terminated by the OCC.

(b) The OCC may issue and serve an Order upon a subject individual against whom a judgment of conviction, or an agreement to enter a pretrial diversion or other similar program has been rendered, where such judgment is not subject to further appellate review, and the OCC, upon the deliberation, has determined that continued service or participation by the subject individual may pose a threat to the interests of

the association's depositors or may threaten to impair public confidence in the association.

### § 108.4 Contents and service of the Notice or Order.

(a) The Notice or Order shall set forth the basis and facts in support of the OCC's issuance of such Notice or Order, and shall inform the subject individual of his right to a hearing, in accordance with this part, for the purpose of determining whether the Notice or Order should be continued, terminated, or otherwise modified.

(b) The OCC shall serve a copy of the Notice or Order upon the subject individual and the related association in the manner set forth in § 109.11 of this chapter.

(c) Upon receipt of the Notice or Order, the subject individual shall immediately comply with the requirements thereof.

### § 108.5 Petition for hearing.

(a) To obtain a hearing, the subject individual must file two copies of a petition with the OCC within 30 days of being served with the Notice or Order.

(b) The petition filed under this section shall admit or deny specifically each allegation in the Notice or Order, unless the petitioner is without knowledge or information, in which case the petition shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a petitioner intends in good faith to deny only a part of or to qualify an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) The petition shall state whether the petitioner is requesting termination or modification of the Notice or Order, and shall state with particularity how the petitioner intends to show that his continued service to or participation in the conduct of the affairs of the association would not, or is not likely to, pose a threat to the interests of the association's depositors or to impair public confidence in the association.